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SIPDIS

SENSITIVE
SIPDIS

DEPARTMENT FOR AF/W, INR/AA
DEPARTMENT PASS TO USTR (AGAMA)
TREASURY FOR DPETERS
USDOC FOR 3317/ITA/OA/KBURRESS
USDOC FOR 3130/USFC/OIO/ANESA/DHARRIS
USDOC FOR USPTO - JOHN KOEPPEN, PAUL SALMON
USDOJ FOR MARIE-FLORE KOUAME

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TAGS: [ECON](#) [KIPR](#) [PGOV](#) [NI](#)

SUBJECT: NIGERIA: INDUSTRY UNHAPPY WITH NCC DIRECTOR GENERAL

REF: ABUJA 2436

SENSITIVE BUT UNCLASSIFIED - NOT FOR DISTRIBUTION OUTSIDE USG

¶1. (SBU) Summary. Adebambo Adewopo, Director General of the Nigerian Copyright Commission (NCC), has received negative press reports in the local media and been subject to complaints from intellectual property (IP) rights experts regarding his tenure at the NCC. Some of the reports against him can be traced to the ongoing battle between two rival collection societies, the Performing and Mechanical Rights Society (PMRS) and the Musical Copyright Society of Nigeria (MCSN). According to the IFPI, the NCC is ill-equipped to enforce copyright protection and Director General Adewopo only pays lip service to copyright enforcement without taking the needed action to prosecute copyright offenders. End Summary.

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MCSN, PMRS Imbroglia

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¶2. (U) The Performing and Mechanical Rights Society (PMRS) and the Musical Copyright Society of Nigeria (MCSN) were licensed collecting societies responsible for collecting royalties on behalf of Nigerian musicians. Both agencies had been in a long drawn out battle for supremacy and legitimacy. The PMRS was licensed to collect royalties during the era when military governments ruled Nigeria, but the MCSN was also collecting royalties at the time without being licensed.

¶3. (SBU) Adewopo has been involved with the MCSN for several years. The media alleges that Adewopo unilaterally licensed the MCSN to collect royalties before the NCC board was constituted in 2004. Before his appointment as Director General, Adewopo and his law firm, Laoye and Adewopo, represented MCSN and he personally appeared in court on MCSN's behalf. Contacts and the media claim that the business relationship that exists between the firm, and MCSN is the reason why Adewopo granted MCSN approval as a collecting society when he became NCC DG.

¶4. (SBU) After petitions were written to former President Obasanjo by IP stakeholders noting Adewopo's role with MCSN, he was suspended from office in 2005 because he did not follow due process in licensing MCSN. The suspension ended in February 2006 and the President decreed that supervision of the NCC be moved from the Ministry of Culture and Tourism to the Ministry of Justice. Several

contacts have said that this move is unconstitutional, has not been approved by the National Assembly and is example of the previous administration's failure to follow the constitution.

15. (U) In September 2007, NCC withdrew the licenses of both MCSN and PMRS, declaring both collecting societies illegal. NCC stated that it would take necessary steps to approve collecting societies in due course.

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IFPI DISAPPOINTED WITH ADEWOPO

16. (SBU) On November 27 Embassy Economic Officers met with Akeem Aponmade and Willem Von Adrichem of the IFPI to discuss copyright protection in Nigeria. Both Aponmade and Von Adrichem agreed that some progress has been made regarding conducting raids on the premises of alleged copyright offenders, and pointed to the Economic and Financial Crimes Commission (EFCC) as the agency best to work with. Aponmade described positive collaboration with the IFPI and EFCC and said "the EFCC is more professional in doing its job." Regarding the NCC, both expressed reservations about the NCC's ability to carry out its statutory responsibility because it is ill-equipped and ill-prepared. IFPI reported that attempts to provide funding support to NCC investigative activities have been unfruitful due to questionable accounting practices at NCC.

17. (SBU) The IFPI officials commented that though the Optical Disc Regulation has been recently passed, its implementation will be a major challenge for the NCC because the "NCC pays only lip service to copyright issues and doesn't take concrete steps or actions whenever it is required." In their opinion, Adewopo prefers talking to the press about exaggerated achievements, rather than ensuring that copyright offenders are prosecuted and punished. He can not be trusted to protect copyrights because the NCC has never obtained a

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judgment against any copyright offender.

18. (SBU) IFPI reported that in a case involving Magnet, a compact disc replicating plant in Lagos, after the company was raided with the assistance of the EFCC in April 2007, a copy of the case file was passed to the NCC in May to prosecute. NCC did nothing and waited until August to request an original copy of the case file from the EFCC. At this time, IFPI reported that, the accused persons have yet to be arraigned in court.

19. (SBU) The IFPI was also upset that the NCC lost evidence needed to prosecute Nasinma Industries, a Chinese owned factory that was producing pirated CDs and pornographic materials, following a raid in 2004. The NCC claimed that it inadvertently destroyed the evidence along with some other counterfeit materials during a press event to trumpet their achievements. The destruction of this evidence led to the dismissal of the case.

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Comment

10. (SBU) The allegations against Director General Adewopo are serious. Embassy contacts have also concurred with allegations of improprieties by Adewopo. Media reports may be skewed against Adewopo because of the ongoing battle between PMRS and MCSN, his law firm's prominent role with MCSN, and his close ties to former President Obasanjo. Professor E.S. Nwauche, Adewopo's predecessor and former Director General of the NCC, resigned his appointment at the NCC because of disagreements between PMRS and MCSN, which led to widespread protests on the streets of Lagos and Abuja led by the Performing Musicians Association of Nigeria (PMAN).

11. (SBU) It is difficult to determine whether the destruction of evidence in the Nasinma case was done intentionally or a result of incompetence. NCC staff are poorly trained and often unable to do their jobs effectively. The NCC is not adequately funded, and in 2006 the it's budget was omitted from the Ministry of Justice budget submission.

¶12. (SBU) Post in cooperation with the U.S. Department of Justice and U.S. Copyright Office recently conducted a seminar in Abuja with the NCC, EFCC and other GON agencies to improve skills (reftel). Following that training it was clear to the trainers that the NCC was not as well trained as the EFCC reps. In addition, in the last year Post has sent a substantial number of NCC officers to the U.S. for training at the U.S. Patent and Trademark Office (USPTO) training center. Most times NCC staff, and staff of the Patents and Trademarks Office do not have funding for their return trip airfare to attend the training, and request to be fully funded by USPTO. This is common problem in the Nigerian public sector because only salaries and overhead fully funded, no provision is made for training.

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